

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on January 14, 1999 at
10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Mary Morris, Acting Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 11, 1/11/99
Executive Action: None

HEARING ON SB 11

Sponsor: SEN. MIKE HALLIGAN, SD 34

Proponents: Bob Person, Executive Director,
Legislative Services Division
Leanne Kurtz, Research Analyst, Office of Research
Policy and Analysis, Legislative Services Division
Margie Thompson, Board of Regents
Richard Crofts, Commissioner of Higher Education

Opponents: None

Opening Statement by Sponsor:

SEN. HALLIGAN noted that, historically, bills for legislative improvement usually never pass; they are always controversial. He distributed a breakdown of permanent and statutory committees, potential statutory studies, and resolutions which were adopted to conduct studies. **EXHIBIT (sts10a01)**. He pointed out that, because the Legislative Services Division will not be funded, these studies requested by the Legislature may not be completed. He reported that the Legislative Improvement Committee, which is part of the Legislative Council, looked at the problem, and asked the staff to come up with some workable solutions. He explained that obviously cost is an issue, but they also need structure and, with legislative term limits, consistency through a combination of new people and experienced people with knowledge of what is going on.

SEN. HALLIGAN explained that the proposed interim committees were designated by determining and, where necessary, combining those issues dealt with by the Legislature, and creating consistency by using standing structured committees, noting that there may still be other issues to be dealt with. He pointed out that the committees will be made up of 4 members from each House for a total of 8 members, adding that there is a possibility of some controversy over the make-up of the membership, but that this proposal will save a lot of money and focus existing expertise in the interim committees.

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Proponents' Testimony:

Bob Person, Executive Director, Legislative Services Division, explained that the Legislative Council was asked to find a way to consolidate the interim activities of the Legislature, to narrow them down and restructure them to some extent. He noted that the Legislative Improvement Committee's challenge to staff to come up with some ideas was a very meaningful assignment because it is pretty obvious that there is a problem that needs to be solved.

He reported that since 1972, when he started with Legislative Services Division, there have been a lot of changes in the operation of the Legislature, that many of those changes have been well considered and necessary, but all have had a tendency to lead to a great deal more interim activity. A lot of those changes were accompanied by increases in staff, but corresponded with increased assignments from the Legislature and increased the

Legislature's capacity to deal with issues during the interim. In recent years, in particular, the number of committees and the amount of work being assigned has proliferated, but there has not been a corresponding increase in resources, so existing resources have become heavily taxed. Efforts by the Legislative Council to suppress growth in the Legislative operation have failed in that a proposal for interim work that is successfully checked will reappear in the form of a number of small committees with narrow assignments. He noted that he calls this process "pop-up and proliferation". The Legislature responds with efforts to fund those committees, but nearly always fails to account for lack of available staff time, lack of space in the Capitol and the added pressure on Legislators to spend more time traveling to attend limited jurisdiction subcommittees. This is an extreme burden on Legislators to cover all of their assignments, and the lack of staff time is becoming a significant problem.

Mr. Person stated that the Legislative Services Division staff are extremely dedicated, they enjoy working for the Legislature and believe it is important, and really dedicate themselves, but this has, in some key cases, lead to some high compensatory time balances, which becomes more and more problematic.

He pointed out that the major purposes of this bill are economy, better legislator education, efficiency of both staff and legislator resources, consistency between the session and the interim, and better public access to the legislative process in the interim. He announced that other Legislative Services Division staff are present to explain different aspects of the bill. **Leanne Kurtz** and **Susan Fox** will present an overview of the bill and outline some of the key things the bill is designed to accomplish. **Greg Petesch** drafted the bill on behalf of the subcommittee and worked with the Legislative Council, and can answer any questions on the structure of the bill. **Todd Everts** can discuss the relationship this bill might have to the Environmental Quality Council, and **Clayton Schenck** can explain how the bill interacts with the Office of Legislative Fiscal Analysts.

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Leanne Kurtz, Research Analyst, Office of Research Policy and Analysis, Legislative Services Division, referred to a breakdown of how the 6 permanent committees proposed in the bill were developed, which was distributed to the committee members, **EXHIBIT(sts10a02)**, and explained that those committees highlighted in blue were the most recent interim committees, those in red were from the 1995-97 interim, purple were from 1993-95 and those in green were from 1991-93. She indicated that

the 6 committees were developed based on statutory committees and the kinds of interim studies that previous interims have dealt with. She pointed out that the function of the Environmental Quality Council will remain unchanged, with the exception of assuming administrative rule review for the Department of Fish, Wildlife and Parks, Department of Natural Resources and Conservation and Department of Environmental Quality. The functions of the Administrative Code Committee will be subsumed by the 6 committees, and each committee will be assigned an attorney to do administrative rule review as the Administrative Code Committee has done in the past.

Ms. Kurtz then referred to a document entitled "Legislative Interim Restructuring, The Basics", which was distributed to the committee members **EXHIBIT(sts10a03)**, and indicated the material outlines the basics of the restructuring plan. She stated that the bottom line is that this bill will save money; fewer committees means fewer trips to Helena and less staff time. She reiterated that, with term limits, there is a need for continuity and some kind of connection between the interim and the sessions, and this plan would provide for that. This would also provide consistent monitoring and review of the executive and judicial agencies, as some agencies in the executive branch have really undergone no legislative oversight at all, while others have had extensive legislative oversight. The structure will also give the public a better idea which committee to voice their concerns to regarding specific issues.

Ms. Kurtz named the proposed committees, and indicated that the EQC will expand its administrative rule review function. She explained that, although there are a large number of repealers in the bill, the functions of those committees will be subsumed by the 6 main committees proposed, and gave examples. She pointed out that the duties of the Post-secondary Education Policy and Budget Committee would be subsumed by the Education Committee with heavy involvement from the Fiscal Division, and **Clayton Schenck** is available to answer any questions regarding the Fiscal Division's potential involvement with the Legislative Services Division and these committees under this structure. She pointed out that, attached to the document titled "Legislative Interim Restructuring, The Basics", **EXHIBIT(3)**, is a breakdown of each committee, their jurisdiction, and the agencies over which these committees would have administrative rule review authority.

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Mr. Person indicated that this bill is very important and necessary to accomplish the broad goals of economy, education and

efficiency, regardless of any amendments it may need. He noted that he realizes there are concerns over the changes this bill encompasses, but asked that the Committee members keep an open mind when considering the bill and the changes proposed, but also be mindful of the problems of "proliferation and pop-up". He pointed out that more time or space can not be created from existing staff and resources, and asked that they also consider the demands on legislators that more committees would entail.

He pointed out that, due to the Capitol renovation program, this would be an ideal interim to test a reduction in the number of meetings, making it easier to logistically support interim committees. He explained that the Legislative Services staff will be moving into the federal building with very limited facilities for meetings and the logistics for supporting interim committees will be vastly more difficult.

{Tape : 1; Side : A; Approx. Time Counter : 18 - 22}

Margie Thompson, Member, Board of Regents, reported that she is a member of the Joint Committee on Post-second Education Policy and Budget, and has found it to be a positive experience and a privilege, that the interaction between legislators, regents, a student and a representative of the Governor's Office has been beneficial. This committee is an effective way to overcome the obstacle of lack of communication and serves as an excellent way to educate the regents regarding issues of state government pertaining to higher education. She stated that she feels very strongly that a more effective board is a more informed board, and urged the Committee to continue the student and regents' participation on this joint committee so they may continue the exchange of ideas with legislators, adding that she feels we need more communication in this vast state, not less.

Richard Crofts, Commissioner of Higher Education, indicated that he supports this restructuring and streamlining of the interim process, but it is important that they do not lose some of the opportunities they have had with their interim committee for significant and indepth discussion of higher education policy for the State of Montana. He pointed out that, during legislative sessions, the pace quickens and opportunities for calm and quiet reflection and study quickly deteriorates, unlike during the interim. He indicated that the proposal for an interim committee for all of education is an important benefit of the change because, although there has been an interim committee for post-secondary education, no one has been really looking at K-12 and the connections between the K-12 system and the university system. He reiterated that they support this bill, and also hope that members of the Board of Regents and students can continue to participate in this very important process.

{Tape : 1; Side : A; Approx. Time Counter : 22 - 27}

Informational Testimony:

Clayton Schenck, Legislative Fiscal Analyst, Legislative Fiscal Division, indicated that this proposal directly impacts interim committees, and the issues related to those committees. Over the last several years, there has been a quantum leap in terms of the staff's efforts to make themselves a seamless organization in working for the Legislature in a number of areas since reorganization, and this same cooperation is working with regard to developing this process. There are a number of issues which indirectly impacts committees outside of the Legislative Council, and they are trying to do their best to make that work. This bill provides a better structure for the staff to work together in developing an interim plan where staff is best assigned, and provides more structure and opportunity to work together.

He reported that **SEN. DARYL TOEWS, Chairman, Post-secondary Education Policy and Budget Committee**, has indicated his support of maintaining the integrity of this committee's process, as **Commissioner Crofts** and **Regent Thompson** testified earlier. It is a very unique committee in terms of how it is structured and that process should continue. In addition, **SEN. CHUCK SWYSGOOD, Chairman, Legislative Finance Committee**, has expressed concern regarding how the Legislative Finance Committee and the Legislative Audit Committee would be involved in assignment of issues to committees, as well as subcommittee assignments, and these are issues that need to be worked out.

{Tape : 1; Side : A; Approx. Time Counter : 27 - 32}

Questions from Committee Members and Responses:

SEN. HARGROVE asked **Regent Thompson** if she is suggesting an amendment regarding the composition of the Education Committee. **Regent Thompson** responded that they just want to make sure they are able to participate on a committee with legislators and a student because the ideas and interaction are so beneficial to the Board of Regents.

SEN. TESTER asked if anyone has the figures on how much money would be saved. **SEN. HARGROVE** mentioned \$75,000, and there was general discussion regarding the fiscal note, which not everyone had a copy of.

SEN. HARGROVE asked **Mr. Petesch** if there was a need for any amendments regarding the composition of the Education Committee

to insure that students and Regents are represented. **Mr. Petesch** explained that, when the Post-Secondary Education Policy and Budget Committee was eliminated and those functions reassigned to the committee created by this bill, they envisioned that the committees would have the ability to create subcommittees, and this bill does not restrict membership of subcommittees. He explained that there is not a provision for membership of certain people such as Regents on the Education Committee because of the rule-review and oversight functions, which could result in a conflict of interest. He reiterated that they have no objection to non-legislators serving on a subcommittee.

SEN. HARGROVE asked **Commissioner Crofts** to respond. **Commissioner Crofts** reported that this committee has functioned in a unique way in that legislators, a student, a representative from the Governor's office, and the Regents have discussed significant policy issues with regard to higher education and the Montana University System, as equal partners attempting to work on issues, and this has been a positive, helpful experience.

Commissioner Crofts referred to the conflict of interest issue, and stated that he felt the Board of Regents would be able to excuse themselves from voting on issues related to the rule-review and oversight functions of the committee, adding that the Montana University System is largely governed by statute rather than rules.

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CHAIRMAN COLE asked **Todd Everts, Director, Environmental Quality Council**, if he foresees any changes in their operations as a result of this bill. **Mr. Everts** responded no, adding that the oversight functions outlined in the bill are what they already do, and these committees were modeled after the EQC model, in a lot of senses.

CHAIRMAN COLE asked **Mr. Person** if 50% of the members of the new committees would be selected from the standing committees, and **Mr. Person** responded yes. **SEN. HALLIGAN** explained that there was discussion in the Legislative Council regarding the appropriate number of members. The discussion did include the fact that the Senate is half the size of the House, how that relationship plays out in terms of the ability of the members to participate, and whether or not it would be appropriate to have more members from the House than from the Senate on an interim committee, which heretofore has never been the case.

Mr. Petesch further explained that this issue is covered at the bottom of page 20 of the bill. The Council resolved this issue by determining that the membership of the interim committees would be comprised of members of committees within the Legislature, and how the selection was to be done would be established by Legislative Rule. The Council also decided that, because of term limits taking effect, the appointing authority should endeavor to appoint members who would be serving in the succeeding session who would be cognizant of what the interim committee discussed, and able to follow through on issues developed during the interim. He added that the appointing goals outlined in the bill will be clarified through legislative rules.

SEN. WILSON referred to the Transition Advisory Committee which he understands was appropriated beyond this session and does not need to be reappointed, and which has quite a few members. He asked **SEN. HALLIGAN** how the provisions of this bill will all fit together in relation to that committee. **SEN. HALLIGAN** noted that he has talked with **SEN. FRED THOMAS** about the Transition Advisory Council and that if, in fact, there are enough members on that committee to maintain the desired level of expertise, perhaps it may be logical to allow that committee to remain intact, especially if it has separate funding and the staff has already been assigned. In the future, when that appropriation expires, it may be necessary to incorporate the TAC into the standing committees.

SEN. WILSON then asked **SEN. HALLIGAN** to expound on the statement that some weight would be given to those people who would be serving in the next session. **SEN. HALLIGAN** responded that this is a very controversial issue, and the opposition is bipartisan, but that, with term limits, it is important to utilize the expertise of those members already serving on the committees. He added that he realizes this may be hard, but it's a bullet we have to bite.

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Closing by Sponsor:

SEN. HALLIGAN stated that they want to make sure they are focusing on legislative improvement, that the biggest issue is improving access to the public, as well as our ability to be productive in their best interest. There is currently the potential that staff will be asked for more than it can possibly accomplish. This will take some time, but the bill has an immediate effective date so this process can begin during this session. This will allow better monitoring of state agencies so that, when we come back to session, we have a good idea of what

the various departments have been doing, and also will provide administrative rule review which, along with legislative oversight of executive functions, is very important.

SEN. HALLIGAN stated that they are willing to deal with the Board of Regents' issue, that they have to have the bridge between those two constitutionally created bodies. He indicated they would be willing to amend to bill to clearly state that the Legislative Council or the committees can create subcommittees in order to include either public members or Regents.

He then indicated that he would like to make sure this committee is comfortable with this proposal in order to support the bill, since staff members will not be able to participate after this point. He added that he will speak with **SPEAKER MERCER** and **PRESIDENT CRIPPEN** to make sure leadership is comfortable with this proposal, as well. There will be bipartisan opposition to a lot of the provisions of this bill because of the way we are clamping down on what we do, so we will need full support out of this committee when it goes to the floor. **SEN. HALLIGAN** noted that **Mr. Petesch** has presented a technical amendment to **David Niss**, and stated that he will work with any amendments the committee may recommend to handle some of the issues discussed in the hearing.

{Tape : 1; Side : B; Approx. Time Counter : 47 - 52}

Committee Discussion:

CHAIRMAN COLE asked **Mr. Niss** to give the committee an overview. **Mr. Niss** referred to page 21, section 24, and pointed out that what the bill is proposing is very different from current operations of the study subcommittees. He explained that, under current law, interim committees do what is assigned to them by the Legislative Council or by study resolution, prioritized by the Council or by bill, or by a study pursuant to a bill. He referred to line 24 on page 21, and stated that these provisions appear to give the interim committees some kind of jurisdiction over agencies, separate and apart from any specific study resolution or bill. These committees have historically been directed toward the accomplishment of a study assigned by someone, but this gives those committees a different role to play. **Mr. Niss** further explained that he was not sure if, under this proposal, members of the committee could develop studies on their own, rather than having it assigned by the Legislature or the Legislative Council, in addition to studies assigned either by resolution or bill, and also how much control they would have over their own budget and jurisdiction. He noted that the language in this proposal creates a system more like the United

States Congress where committees have jurisdiction over state agencies, they hear testimony regarding particular problems in agencies under their jurisdiction and develop legislation, rather than being assigned the duty to study and report. **Mr. Niss** reiterated that this is very different from how the Legislature has been organized and has operated during the interim heretofore.

SEN. HARGROVE asked **Mr. Niss** if this is much different than an oversight committee, which operates in this way. **Mr. Niss** responded that may be true, but there has not been a statutory basis in Title 5 for that kind of operation, and now there would be. There was general discussion regarding the membership structure and responsibilities of various committees, and **Mr. Niss** pointed out the difference between committees formed under Title 2 and those formed under Title 5. He then reiterated that he does not know how this bill would affect the assignment of study resolutions to committees, how much of a role committees would play in the prioritization of what bills or study resolutions do pass, or how much control these committees would have over their own work.

There was discussion regarding the scope of responsibility of the committees as compared to the number of members, whether or not there would be subcommittees, and the time commitment required of committee members. It was agreed the committee should take their time in considering this proposal.

SEN. TESTER agreed that 8 members may be too few for these committees, and noted that it appears to him that the initial committee assignments of legislators determines their future appointments. **SEN. HARGROVE** said that, under term limits, this is true and it should be that way. He explained that there will no longer be legislators who have served 20-30 years and have learned a lot by serving on diverse committees, so that citizen legislators under term limits need to use their life experiences and focus on those. There was agreement among the committee members on this point, and further general discussion.

ADJOURNMENT

Adjournment: 11:20 A.M.

SEN. MACK COLE, Chairman

MARY MORRIS, Acting, Secretary

MC/MM

EXHIBIT (sts10aad)